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UNCLAS SECTION 01 OF 02 PORT AU PRINCE 002690

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SUBJECT: HAITI ELECTIONS: PROGRESS TOWARD FIRST ROUND ON
DECEMBER 18

REF: PORT-AU-PRINCE 2667

1. This message is sensitive but unclassified -- protect accordingly.

2. (SBU) Summary: The Interim Government of Haiti (IGOH) on October 28 promulgated amendments to electoral decrees that reduce the time necessary to prepare for national elections and preserve the possibility of holding the first round on December 18. The Provisional Electoral Council (CEP) published the provisional list of parliamentary candidates on October 31. CEP Director General Jacques Bernard is also working closely with MINUSTAH to create additional efficiencies and thus save more time. Bernard reported to Charge Carney on November 3 that the PM had assured him that the State Commission on the Nationality of Candidates (CENC) would officially notify the CEP that Dumarsais Simeus and Samir Mourra are ineligible to contest the presidency. With this notification in hand, the CEP was prepared to exclude them and publish the final list of presidential candidates on November 4. In that event, Simeus and Mourra will likely lodge a challenge to the constitutionality of the CENC with the Supreme Court. Simeus and Mourra would also likely appeal their exclusion from the presidential candidates list to the CEP. End Summary.

Gaining Time in the Electoral Calendar

3. (U) The October 28 changes remove the Supreme Court from the elections appeals process. This step reduces the time for election contestations to nine days by making the CEP the last instance of appeal for all elections contestations and opened the way for the CEP to publish the lists of parliamentary candidates. The international community, led by SRSV Valdes, pushed the IGOH to take this step, including it in its ten necessary actions drafted in September in order to ensure successful elections. Regional Electoral Office (BED) officials posted those lists on October 31. According to the new decree, candidates left off the provisional lists have three days to appeal to either the communal offices (BECs) or BEDs, which must make a decision within three days. The CEP is the final recourse for candidates to appeal BEC/BED rulings; candidates have one day to contest a BEC/BED decision and the CEP has two days in which to make a final ruling.

4. (U) The new amendments also shorten the time-frame for parties and candidates to contest elections results from three days to one. This change eliminates two days between the close of voting and the certification of elections results after each round, a timesaving that will be critical between the first and second round of national elections. MINUSTAH elections chief LeChevallier and Bernard are also preparing to expedite rulings on candidate contestations. Bernard told Poloff he would ensure the CEP treats candidate appeals quickly by convening the three-member CEP appeals panels immediately once appeals reach the CEP. (Note: Previous delays in ruling on contestations to the presidential list stemmed largely from their tardy treatment by the CEP. End Note.)

5. (U) The government also published on October 28 a presidential order containing the already out-of-date electoral calendar, calling for national elections on November 20, local elections on December 11, and the second round of national elections on January 3. Per Reftel, the IGOH, MINUSTAH, the CEP, and the OAS consider December 18 the first feasible date for national elections, and January 29 as the first possible date for a second round. By taking the necessary legal step of convening elections, however, this order should allow the government to quickly establish final election dates by amendment.

New By-Laws Put Bernard Formally in Charge

6. (SBU) According to Bernard, the Cabinet approved on October 29 new by-laws for the CEP that enhance Bernard's

authority and limit the support committee's role, despite protests by support committee chairperson Danielle Magloire and member Minister of Culture Magali Comeau Denis. The endorsement of Bernard by the IGOH also isolates CEP member Pierre- Richard Duchemin, who continues to fight to maintain his own authority and for a prominent role for the support committee. The CEP must, but has not yet formally adopted the new by-laws, but Bernard reports that he has the solid support of six of the nine CEP members, including CEP President Mathurin. With this support, he has the ability to move on actions demanding immediate attention.

Final Presidential List Pending

17. (SBU) Bernard confirmed to the Charge on November 3 that he is still waiting for formal findings from the CENC before the CEP publishes the final list of presidential candidates. He later reported that the Prime Minister would ensure that today, November 3, the CENC would provide the CEP written notification that Simeus and Mourra were not eligible presidential candidates. With this notification in hand, Bernard reported that the CEP would publish the final presidential list without Simeus and Mourra on November 4. (NOTE: The PM also reportedly told Bernard that the government had published the decree establishing the CENC & some time ago.⁸ A post contact at the Monitor, the official government register, subsequently reported that the decree had appeared & over the weekend.⁸ Post is in the process of confirming this information and obtaining this issue of the Monitor. End Note)

Comment

18. (SBU) Bernard has in large measure succeeded so far: as a result of his efforts December 18 remains a viable date for the first round, and the IGOH and the CEP have managed to meet critical deadlines. Every day remains crucial, however, and the IGOH must continue to back Bernard. If the IGOH and the CEP follow through with their intention to exclude Simeus and Mourra from the final presidential list, the dispute will move into the legal realm. Both Simeus and Mourra have told Polcouns that they will challenge the constitutionality of the CENC in the Supreme Court.
CARNEY